

Allard K. Lowenstein International  
Human Rights Clinic –  
National Litigation Project  
Yale Law School  
127 Wall St  
New Haven CT 06511-8918

Jonathan M. Freiman

08-F-1281

BY CERTIFIED MAIL

October 23, 2007

Doris M. Lama , Head  
DONPA/FOIA Policy Branch  
CNO (DNS-36)  
2000 Navy Pentagon  
Washington, D.C. 20350-2000

Re: Request Submitted Under the Freedom of Information Act

Dear Freedom of Information Officer:

This letter constitutes a request ("Request") pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (FOIA). The Request is submitted on behalf of the Allard K. Lowenstein International Human Rights Clinic at Yale Law School ("Requester" or "Lowenstein Clinic").

The Lowenstein Clinic advocates for the advancement of international human rights through the collection and dissemination of information related to human rights and through selective involvement in legal matters before international and national fora. The Lowenstein Clinic has prepared and published dozens of reports on human rights matters across the globe, including reports on United States adherence to or deviation from international human rights norms. Along with its leaders, the Lowenstein Clinic has been honored with more than twenty awards in the nearly two decades since its founding.

Requester is filing the Request simultaneously with the Department of Defense (including its components, Departments of the Army, Navy, and Air Force, Marine Corps, Defense Intelligence Agency, and Office of the Inspector General), the Department of Justice (including its components, Federal Bureau of Investigation, Office of the Attorney General, National Security Division, Office of the Federal Detention Trustee, Office of the Inspector General, Office of Legal Counsel, Office of Legal Policy, Office of Professional Responsibility, Office of Intergovernmental and Public Liaison, and Office of Legislative Affairs), the Department of Homeland Security (including its components the Federal Law Enforcement Training Center and the Office of the Inspector General), the Department of State, and the Central Intelligence Agency.

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### Records Requested

Numerous media reports, government investigations, and lawsuits filed in United States courts indicate that the government may not have complied with its obligations not to engage in arbitrary detention and torture of citizen and non-citizen individuals suspected of involvement in terrorist activities.

To determine whether the United States has been honoring its obligations in this regard under both domestic and international law, Requester seeks the release of any and all agency records concerning the detention and/or interrogation of individuals denominated “enemy combatants” and *detained at civilian or military facilities within the United States* including but not limited to the classes of documents enumerated below:

1. Any and all documents authorizing the detention and/or interrogation at civilian or military facilities within the United States of individuals designated as enemy combatants, including but not limited to the authority for such detentions and/or interrogations at the Consolidated Naval Brig in or near Charleston, South Carolina (“Charleston Brig”);
2. Any and all documents authorizing departure from the usual procedures for detention set forth in Department of the Navy Corrections Manual, SECNAVINST 1640.9C (Jan. 3, 2006) in the case of individuals designated as enemy combatants and detained at military facilities within the United States, including but not limited to the authority for and description of the detention and/or interrogation procedures used on enemy combatants at the Charleston Brig;
3. Any and all documents relating to or arising out of the detention and/or interrogation, at military or civilian facilities within the United States, including at the Charleston Brig, of individuals designated as enemy combatants, including but not limited to:
  - a. Policies, procedures, or guidelines relating to or arising out of the detention and/or interrogation of such individuals;
  - b. Information and/or instructions relating to or arising out of the division of responsibility between military forces, civilian law enforcement agencies, other government agencies, and/or contractors for the detention and/or interrogation of such individuals;
  - c. Information as to the methods of interrogation and/or conditions of confinement authorized for use on such individuals;
  - d. Information as to the methods of interrogation and/or conditions of confinement used on such individuals, regardless of whether those methods were authorized;

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- e. Instructions relating to or arising out of the interrogation and/or detention of such individuals;
  - f. Requests for authorization to apply specific interrogation techniques and/or conditions of confinement to such individuals;
  - g. Documents relating to or arising out of the physical and/or psychological condition of such individuals, including but not limited to any expression of concern about or objections to any such detainee's condition by military or other U.S. government personnel or by independent contractors;
  - h. Documents relating to or arising out of the interrogation practices used on, or the conditions of confinement of, such individuals, including but not limited to any expression of concern about or objection to such practices or conditions of confinement by military or other U.S. government personnel or by independent contractors;
  - i. Documents relating to or arising out of inquiries from third parties regarding the physical and psychological health and welfare of such individuals;
  - j. Documents relating to or arising out of inquiries from third parties regarding interrogation practices and/or conditions of confinement of such individuals; or
  - k. Policies, procedures, or guidelines governing the role of health personnel in the interrogation of such individuals, including but not limited to the role of health personnel in the medical, psychiatric, or psychological assessment of such detainees immediately before, during, or after interrogation.
4. Any and all documents relating to or arising out of the detention and/or interrogation of individuals designated as enemy combatants that was collected by B. Gen. Thiessen during his review of operations at the Charleston Brig on May 6 and May 7, 2004, pursuant to the Secretary of Defense's memo of May 3, 2004, including but not limited to:
- a. Interviews with military or other U.S. government personnel or independent contractors;
  - b. Correspondence between or reports prepared by or for military or other U.S. government personnel or independent contractors;
  - c. Observations and conclusions of B. Gen. Thiessen;
  - d. Evidence supporting the conclusion that unauthorized techniques were being used at the Charleston Brig, as indicated on Slide 9 of the May 11, 2004, Brief to Secretary of Defense on Treatment of Enemy Combatants Detained at Naval Station Guantanamo Bay, Cuba, and Naval Consolidated Brig, Charleston (declassified July 19, 2005) (attached as Ex. A);
5. Copies of any memoranda, directives, reports, or other documents issued by the Department of Defense or its components, or by other government agencies or their components, relating to or arising out of authorized and unauthorized detention of and/or interrogation practices applied to individuals designated as enemy combatants at military or civilian facilities within

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the United States, including but not limited to the Department of Defense guidance referred to on Slide 15 of the May 11, 2004, Brief to Secretary of Defense on Treatment of Enemy Combatants Detained at Naval Station Guantanamo Bay, Cuba, and Naval Consolidated Brig, Charleston (declassified July 19, 2005) (attached as Ex. B);

6. Any and all documents relating to or arising out of any letter or other request from any member of Congress for information on conditions of detention and/or interrogation techniques applied at military or civilian facilities within the United States to individuals designated as enemy combatants, including, but not limited to, documents relating to or arising out of the following letters: May 19, 2004, letter from Congressman Conyers to Chairman Sensenbrenner; March 12, 2004, letter from Senator Leahy to Secretary Rice; and May 28, 2004, letter from Senator Leahy to Attorney General Ashcroft (attached respectively as Exs. C, D, and E);
7. Any and all documents relating to or arising out of any agreement or instructions, whether formal or informal, between government agencies, including but not limited to the Departments of Justice, Defense, Homeland Security or State or their components, regarding the detention and/or interrogation within the United States of individuals designated as enemy combatants.

#### Fee Waiver

Requester applies for a waiver of fees on the grounds that disclosure of the requested records "is likely to contribute significantly to the public understanding of the activities or operations of the government and is not primarily in the commercial interest of the requester." 5 U.S.C. § 552(a)(4)(A)(iii). In particular, granting of this Request will further public understanding of government conduct, specifically the government's commitment to domestic and international proscriptions against arbitrary detention and torture.

At a minimum, in the event that a full fee waiver is not granted, Requester asks that any fees be "limited to reasonable standard charges for document duplication," because the "records are not sought for commercial use and the request is made by an educational . . . institution, whose purpose is scholarly . . . research." 5 U.S.C. § 552(a)(4)(A)(ii)(II).

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If the Request is denied in whole or part, Requester asks that you justify all denials or deletions by reference to specific exemptions of the FOIA. Requester expects you to release all segregable

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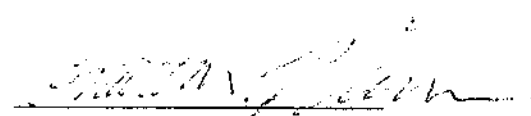
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portions of otherwise exempt material. Requester reserves the right to appeal a decision to withhold any information or to deny a waiver of fees.

Requester thanks you for your prompt attention to this matter and looks forward to your reply to the Request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(i).

Please respond to Jonathan Freiman, National Litigation Project, Lowenstein Clinic, Yale Law School, 127 Wall St, New Haven CT 06511.

Signed by:



Jonathan Freiman  
National Litigation Project  
of the Allard K. Lowenstein International  
Human Rights Clinic at Yale Law School  
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